

Message Text

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ORIGIN L-03

INFO OCT-01 IO-13 ISO-00 SS-15 EB-08 EUR-12 TRSE-00
JUSE-00 SIG-03 SSO-00 NSCE-00 USIE-00 INRE-00
AID-05 CEA-01 CIAE-00 COME-00 EA-10 FRB-03 INR-10
NEA-10 NSAE-00 OPIC-03 SP-02 LAB-04 SIL-01
AGRE-00 OMB-01 /105 R

DRAFTED BY L:M B FELDMAN:LHS

APPROVED BY L:M B FELDMAN

D - MR. SPIEGEL

EB/IFD/OIA - MR. KAUZLARICH

EUR/RPE - MR. GELBARD

TREASURY/GC - MR. PALMER

JUSTICE - MR. SHINE

-----125888 242345Z /64

O R 242251Z MAR 78

FM SECSTATE WASHDC

TO ALL OECD CAPITALS IMMEDIATE

INFO USMISSION USUN NEW YORK

C O N F I D E N T I A L STATE 077170

BRUSSELS FOR USEEC

E.O. 11652: GDS

TAGS: EGEN, EINV, ECOSOC, UN

SUBJECT: ECOSOC WORKING GROUP ON ILLICIT PAYMENTS

REF: STATE 75523

1. THE U.S. DEL HELD INFORMAL CONSULTATIONS IN NEW YORK
THURSDAY, MARCH 23 WITH OECD REPS INFORMED ON ILLICIT
PAYMENTS QUESTION WHO HAPPENED TO BE PRESENT IN NEW YORK.
THESE INCLUDED SWISS, JAPANESE AND CANADIANS. AMONG
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THESE DELS THERE APPEARS TO BE GENERAL SUPPORT FOR AN
AGREEMENT ON ILLICIT PAYMENTS INCLUDING BASIC ELEMENTS OF
FRENCH PROPOSALS ON CRIMINALIZATION AND CERTAIN RECOMMEN-
DATIONS OF ICC INCLUDING, PARTICULARLY, (1) RECORD-KEEPING
OF AGENTS' FEES AT LEAST FOR USE IN CONNECTION WITH
INVESTIGATION OF CRIMINAL OFFENSES AND (2) INCLUDING IN
GOVERNMENT CONTRACTS SOME FORM OF REPRESENTATION THAT

UNLAWFUL PAYMENTS ARE NOT MADE IN CONNECTION WITH THE CONTRACT. THE U.S. DEL ALSO EXPRESSED ITS READINESS TO ADOPT THE PROVISIONS OF HAGUE CONVENTION IN RESPECT OF EXTRADITION AND ITS PREFERENCE FOR THE JUDICIAL ASSISTANCE PROVISIONS OF WORKING GROUP REPORT E/6006. A U.K. REP SAT IN BUT SAID LITTLE.

2. THERE WAS STRONG SENTIMENT FOR CONSULTATIONS AMONG OECD DELS AT OUTSET OF NEXT MEETING OF THE WORKING GROUP, PREFERABLY IN THE AFTERNOON OF APRIL 3, JUST BEFORE OR AFTER THE AFTERNOON SESSION OF THE WORKING GROUP. IN ANTICIPATION OF SUCH CONSULTATIONS USG HAS PREPARED A NUMBER OF TEXTS FOR CONSIDERATION BY OTHER DELS. THE FOLLOWING ARE TEXTS OF ARTICLES I AND IV BASED ON THE ORIGINAL FRENCH PROPOSALS AND TAKING INTO ACCOUNT THE WORK DONE ON THEM IN THE WORKING GROUP. THESE TEXTS ARE AN ATTEMPT TO FIND SOLUTIONS TO THE CONCERNS EXPRESSED BY THE U.S. AND OTHER DELS AT THE MEETING CONSISTENT WITH THE STRUCTURE AND THRUST OF THE FRENCH TEXT. WE HOPE THEY CAN FORM THE BASIS OF A COMMON OECD POSITION ON THESE ARTICLES. NATURALLY WE ARE OPEN TO SUGGESTIONS AND WILL BE REVIEWING THE TEXT FURTHER OURSELVES.

3. QUOTE. ARTICLE I: EACH CONTRACTING STATE UNDERTAKES TO MAKE THE FOLLOWING ACTS PUNISHABLE UNDER ITS NATIONAL LAW: (1) THE OFFERING, PROMISING OR GIVING OF ANY PAY-CONFIDENTIAL

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MENTS, GIFTS OR OTHER BENEFITS BY ANY PERSON ON HIS OWN BEHALF OR ON BEHALF OF ANY NATURAL OR JURIDICAL PERSON TO A PUBLIC OFFICIAL DIRECTLY OR INDIRECTLY OR TO A THIRD PERSON WITH THE INTENTION OF INDUCING A PUBLIC OFFICIAL TO PERFORM OR REFRAIN FROM THE PERFORMANCE OF HIS DUTIES IN CONNECTION WITH THE NEGOTIATION, CONCLUSION, RETENTION OR REVISION OF AN INTERNATIONAL COMMERCIAL TRANSACTION; (2) THE SOLICITING, DEMANDING OR RECEIVING DIRECTLY OR INDIRECTLY BY A PUBLIC OFFICIAL OR ANOTHER PERSON OF ANY PAYMENTS, GIFTS, OR OTHER BENEFITS FOR THE PUBLIC OFFICIAL OR ANOTHER PERSON WITH THE INTENTION THAT THE PUBLIC OFFICIAL BE INDUCED TO PERFORM OR REFRAIN FROM THE PERFORMANCE OF HIS DUTIES IN CONNECTION WITH THE NEGOTIATION, CONCLUSION, RETENTION OR REVISION OF AN INTERNATIONAL COMMERCIAL TRANSACTION. UNQUOTE.

4. QUOTE. ARTICLE IV: (1) EACH CONTRACTING STATE SHALL TAKE SUCH MEASURES AS MAY BE NECESSARY TO ESTABLISH ITS JURISDICTION OVER THE OFFENSES REFERRED TO IN ARTICLE I AND TO ENFORCE ITS LAWS PROHIBITING SUCH OFFENSES WHEN THEY ARE COMMITTED: (A) BY ONE OF ITS PUBLIC OFFICIALS; (B) IN ITS TERRITORY; OR (C) BY ANY PERSON OR ENTERPRISE

OFITS NATIONALITY AND ANY ELEMENT OF THE OFFENSE, OR
ANY ACT AIDING OR ABETTING THE OFFENSE, IS CONNECTED WITH
ITS COMMERCE.

(2) THIS ARTICLE DOES NOT ESTABLISH INTERNATIONAL
OBLIGATIONS WITH RESPECT TO DE MINIMUS PAYMENTS AND DOES
NOT EXCLUDE ANY CRIMINAL JURISDICTION EXERCISED IN

ACCORDANCE WITH NATIONAL LAW. UNQUOTE.

5. ACTION REQUESTED: THAT YOU PROVIDE ABOVE TEXTS TO
HOST GOVERNMENT AND REPORT COMMENTS ASAP. VANCE

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NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CORRUPTION, DIPLOMATIC DISCUSSIONS, FEES
Control Number: n/a
Copy: SINGLE
Draft Date: 24 mar 1978
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Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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